

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

NEIL JAMES ROBERSON,

Petitioner,

v.

VERGE,

Respondent.

Case No. 2:24-cv-01130-JCC-TLF

REPORT AND
RECOMMENDATION

Noted for: November 15, 2024

This matter is before the Court on petitioner's failure to respond to the Court's order to show cause ("Order"). Dkt. 8. Petitioner is proceeding *pro se* and *in forma pauperis* in this matter, which has been referred to the undersigned Magistrate Judge. *Mathews, Sec'y of H.E.W. v. Weber*, 423 U.S. 261 (1976); 28 U.S.C. § 636(b)(1)(B); Local Rule MJR 4(a).

On July 25, 2024, petitioner filed a proposed habeas corpus petition pursuant to 28 U.S.C. § 2241. Dkt. 1. On August 6, 2024 he filed a motion for leave to proceed *in forma pauperis* ("IFP"). Dkt. 4. Given the identified deficiencies in the proposed petition, namely that exhaustion of state remedies had not been shown, the Court did not grant petitioner's IFP application. Dkt. 8; See Dkt. 4-14 at 1-8. Petitioner was given until October 18, 2024 to show cause why his petition should not be dismissed. *Id.*

Petitioner has not filed a response to the Order. Therefore, the Court recommends dismissal of this action without prejudice. *Picard v. Connor*, 404 U.S. 270,

1 276 (1971) (if a petition for habeas corpus contains claims that are unexhausted, it is
2 not cognizable in federal court); *Cf. Casey v. Moore*, 386 F.3d 896, 920 n. 26, 921 n.27
3 (9th Cir. 2004) (unexhausted claim may be dismissed if the state courts procedurally
4 barred the claim).

5 The parties have fourteen (14) days from service of this Report and
6 Recommendation to file written objections thereto. 28 U.S.C. § 636(b)(1); Fed. R. Civ.
7 P. 72(b); *see also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of
8 those objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985).
9 Accommodating the time limit imposed by Fed. R. Civ. P. 72(b), the Clerk is directed set
10 this matter for consideration on **November 15, 2024**, as noted in the caption.

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13 Dated this 31st day of October, 2024.
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17 Theresa L. Fricke
18 United States Magistrate Judge
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